

## FOREST MANAGEMENT

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36.11.401 ACCOUNTABLE PARTIES (1) The trust land management division of the department of natural resources and conservation shall implement the rules as outlined in this subchapter to provide field personnel with consistent policy, direction, and guidance for the management of forested state trust lands. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.402 GENERAL APPLICABILITY (1) The state forest land management rules, ARM 36.11.403 through 36.11.450, shall apply to forest management activities on all forested state trust lands administered by the department.

(2) The department shall not require that ARM 36.11.403 through 36.11.450 be implemented on projects that, prior to the adoption of the rules, have gone through the MEPA public scoping process, except the department shall review those timber sales where old growth was proposed for harvesting that were developed using the state forest land management plan biodiversity guidance of 1998 to ensure compliance with ARM

36.11.404 through 36.11.429. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.403      DEFINITIONS      Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules:

(1) "Abandoned road" means a road that is permanently closed because it is not intended for use for future forest management activities or motorized vehicles and is left in a condition that provides adequate stability and surface drainage without periodic maintenance.

(2) "Active bald eagle nest" means any bald eagle nest that either:

(a) is known to be occupied by a breeding pair; or

(b) has been occupied by nesting bald eagles within the past five years.

(3) "Adjacent wetland" means a wetland located within a streamside management zone established under ARM 36.11.302. Adjacent wetlands are located immediately adjacent to streams, lakes or other bodies of water.

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(4) "Administrative" unit means the full set of lands managed and administered by an individual field office.

(5) "Administrative use" means any activities associated with project preparation, planting, pre-commercial thinning, project administration, forest inventory, monitoring, salvage, prescribed burning, slash disposal, on-site license or lease administration, and maintenance activities.

(6) "Bald eagle home range" means a circular area having a radius of 2.5 miles around all nest sites that have been active within five years or as defined in a bald eagle site-specific plan.

(7) "Bald eagle nest site area" means a circular area having a radius of 0.25 mile around active or alternate nests that have been active within five years or as defined in a bald eagle site-specific plan.

(8) "Bald eagle primary use area" means the circular area extending from 0.25 mile to 0.5 mile from active and alternate nests or as defined in a bald eagle site-specific plan. The exact configuration of this area may be altered upon consultation with a department biologist, if geographic conditions allow. The intention is to best approximate the area frequented by nesting eagles. Lacking other data or consultation, the 0.25 to 0.5 mile area shall be used.

(9) "Bald eagle site-specific plan" means a site-specific plan for isolated breeding areas or unique situations that are developed for resolution of conflicts. Such plans are completed only after an intensive research effort designed to determine home range, activity patterns, perch and roost areas, food habits, foraging areas, and responses to human activity of specific pairs.

(10) "Bear management unit or BMU" means a geographic analysis area previously designated by an interagency technical committee which is meant to accommodate the year long habitat needs of both male and female grizzly bears.

(11) "Best management practices or BMP's" means a practice or set of practices adopted and prescribed by the state of Montana as the most effective and practical means of providing minimum water quality protection for forestry operations.

(12) "Black-backed woodpecker habitat" means fire-killed stands of trees greater than 40 acres, less than five years since disturbance, and with greater than 40 trees per acre that are greater than or equal to nine inches DBH.

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(13) "Broadcast burning" means spreading fire through a continuous fuel cover. The fuels consist of slash resulting from forest practices, surface litter, and duff. Fuels are left in place, fairly uniform, and ignited under certain conditions with the intent to meet planned management objectives in the desired area.

(14) "Categorical exclusion" refers to a type of action that does not individually, collectively, or cumulatively

require an environmental assessment or environmental impact statement unless extraordinary circumstances occur.

(15) "Class 1 stream segment" means:

(a) a portion of stream that supports fish; or

(b) a portion of stream that:

(i) normally has surface flow during six months of the year or more; and

(ii) contributes surface flow to another stream, lake or other body of water.

(16) "Class 2 stream segment" means a portion of a stream that is not a class 1 or class 3 stream segment. Two common examples of class 2 stream segments are:

(a) a portion of stream that:

(i) does not support fish;

(ii) normally has surface flow during less than six months of the year; and

(iii) contributes surface flow to another stream, lake or other body of water; or

(b) a portion of stream that:

(i) does not support fish;

(ii) normally has surface flow during six months of the year or more; and

(iii) does not contribute to another stream, lake or other body of water.

(17) "Class 3 stream segment" means:

(a) a portion of a stream that does not support fish;

(b) normally has surface flow during less than six months of the year; and

(c) rarely contributes surface flow to another stream, lake or other body of water.

(18) "Coarse filter" means an approach that supports diverse wildlife habitat by managing for a variety of forest structures and compositions, instead of focusing on habitat needs for individual, selected species. A coarse filter approach assumes that if landscape patterns and processes similar to those species evolved with are maintained, then the full complement of species will persist and biodiversity will be maintained.

(19) "Coarse woody debris or CWD" means dead woody material such as stems or limbs, generally larger than three inches in diameter.

(20) "Connectivity" means:

(a) the extent to which conditions exist or should be provided between separate forest areas to ensure habitat for breeding, feeding, or movement of wildlife and fish within their home range or migration areas; or

(b) regarding management of lynx and fisher habitat, stand conditions where sapling, pole, mature, or old stands possess greater than 39% crown canopy closure, in a patch greater than 300 feet wide.

(21) "Cover type" means a descriptor of forest stands based upon tree species composition.

(22) "Denning period" (grizzly bear) means the period from November 16 through March 31.

(23) "Department" means the department of natural resources and conservation.

(24) "Desired future condition" means the land or resource conditions that will exist if goals and objectives are fully achieved. It is considered synonymous with appropriate conditions.

(25) "Diameter at breast height or DBH" means the diameter of the stem of a tree measured at 4.5 feet from the ground.

(26) "Facultative plants" means plants that are equally likely to occur in wetlands and non-wetlands (34 to 66% estimated probability).

(27) "Facultative wetland plants" means plants that usually occur in wetlands (67 to 99% estimated probability) but are occasionally found in non-wetlands.

(28) "Flammulated owl preferred habitat types" means regionally accepted climax vegetation classifications denoted by the following acronyms:

(a) PIPO (Pinus ponderosa)-all types;

(b) PSME (Pseudotsuga menziesii)/AGSP (Agropyron spicatum);

(c) PSME/FEID (Festuca idahoensis);

(d) PSME/FESC (Festuca scabrella);

(e) PSME/SYAL (Symphoricarpos albus);

(f) PSME/PHMA (Physocarpus malvaceus);

(g) PSME/VACA (Vaccinium caespitosum);

(h) PSME/CARU (Calamagrostis rubescens);

(i) PSME/SPBE (Spiraea betulifolia); and

(j) PSME/ARUV (Arctostaphylos uva-ursi).

(29) "Forest management activities" means activities or operations normally associated with the management of department administered forest land including:

- (a) timber harvest;
- (b) salvage harvest;
- (c) thinning;
- (d) control and disposal of slash;
- (e) prescribed burning;
- (f) site preparation;
- (g) reforestation;
- (h) weed control;
- (i) road construction;
- (j) road maintenance;
- (k) inventory;
- (l) monitoring; and
- (m) grazing of classified forest lands.

(30) "Grizzly BMU sub-unit" means an administrative area designation related to grizzly bear recovery that approximates the home range size of a female grizzly bear.

(31) "Habitat type group or HTG" means a collection of land areas potentially capable of producing similar plant communities at climax, generally named for the predicted climax community type.

(32) "Hiding cover" means vegetation that provides visual screening capable of obstructing from view 90% of an adult grizzly bear at 200 feet.

(33) "Human activity (high intensity)" means any human use or activity associated with:

- (a) frequent and/or intensive public recreation;
- (b) heavy equipment use;
- (c) aerial yarding;
- (d) blasting;
- (e) logging;
- (f) log hauling;
- (g) pre-commercial thinning;
- (h) road construction;
- (i) site alteration; or
- (j) site development.

(34) "Human activity (low intensity)" means any minor human use or activity associated with:

- (a) dispersed and/or infrequent public recreation;

- (b) project preparation;
- (c) short-duration activities associated with site alteration or site development; and
- (d) planting.

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(35) "Hydric soils" means soils that are formed under conditions of:

- (a) saturation;
- (b) flooding; or
- (c) ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizons.

(36) "Investments" means the department's internal investments in forested state trust lands. These investments may include items such as:

- (a) silvicultural prescriptions;
- (b) road construction and maintenance;
- (c) plantation establishment and maintenance;
- (d) wildlife habitat structures; and
- (e) public recreation.

(37) "Isolated wetland" means a wetland that does not intercept or lie within a SMZ boundary.

(38) "Lake" means a body of water:

- (a) where the surface water is retained by either natural or artificial means;
- (b) where the natural flow of water is substantially impeded; and
- (c) which supports fish.

(39) "Lynx denning habitat" means mature forest within lynx habitat with numerous downed logs occurring in at least five-acre patches. Younger successional stages offer denning habitat where CWD amounts are high, such as areas with extensive timber blow down.

(40) "Lynx habitat" means forest lands comprised of subalpine fir or hemlock habitat types, and moist Douglas-fir, grand fir, western red cedar, and Engelmann spruce habitat types where they are intermixed with appreciable amounts of subalpine fir habitat types. Cover types may be mixed species composition (subalpine fir, hemlock, Engelmann spruce,

Douglas-fir, grand fir, western larch, lodgepole pine and hardwoods), and stands dominated by lodgepole pine.

(41) "Lynx non-habitat" means:

(a) definable winter ranges normally used by high concentrations of big game animals and associated predators regardless of habitat type; or

(b) the following habitat types:

(i) ponderosa pine and dry Douglas-fir;

(ii) limber pine;

(iii) whitebark pine;

(iv) water;

(v) rock; and

(vi) permanent non-forest areas.

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(42) "Mature foraging habitat (lynx)" means sawtimber stands within lynx habitat that possess moderate or well-stocked coniferous understory vegetation.

(43) "Mechanized activity" means all activities associated with:

(a) chainsaw operation and timber felling;

(b) pre-commercial thinning;

(c) motorized vehicle trips associated with administrative uses;

(d) skidding and ground-based yarding operations;

(e) aerial yarding;

(f) mechanized road construction and maintenance;

(g) log loading;

(h) log processing; and

(i) log hauling.

(44) "Moderately stocked" means forest stand density described by crown closure of 40 to 69%.

(45) "Motorized trails" means a trail without restrictions on motorized use and which legally allows use by motorized vehicles. Trails used by four-wheel-drive vehicles and motorized trail bikes are examples of this type of access route.

(46) "Non-denning period" (grizzly bear) means the period April 1 through November 15.

(47) "Obligate wetland plant" means plants that possess a greater than 99% probability of occurring in wetlands under natural conditions.



(c) a road that would otherwise meet the definition of a restricted road, but receives greater than low-level use for greater than 30 days duration.

(54) "Open road density" means the percentage of a defined grizzly bear analysis area that exceeds one mile of open road or motorized trail per square mile.

(55) "Other body of water" means ponds and reservoirs greater than 1/10th acre that do not support fish; and irrigation and drainage systems draining directly into a stream, lake, pond, reservoir or other surface water. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.

(56) "Other habitat (lynx)" means forest lands in lynx habitat that do not meet the habitat definitions for denning, mature foraging, young foraging, or temporary non-lynx habitat, but serve to provide cover to facilitate movement and acquisition of alternative prey species, such as red squirrels.

(57) "Patch" means a contiguous area of vegetation similar in characteristics of interest, such as tree height, stocking, species composition, or age class. The patch can be composed of a stand, a part of a stand, or many stands.

(58) "Pileated woodpecker preferred habitat" means live, mature cottonwood stands and mature conifer forests with overstory canopies dominated by large-sized western larch or ponderosa pine, and containing Douglas-fir, large snags and CWD.

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(59) "Pre-commercial thinning" means the removal of trees not for immediate financial return but to reduce stocking to concentrate growth on the more desirable trees.

(60) "Preferred fisher cover types" means cover types occurring at elevations below 6,000 feet that include:

- (a) western larch/Douglas-fir;
- (b) western white pine;
- (c) mixed conifer;
- (d) western red cedar;
- (e) Engelmann spruce;
- (f) Douglas-fir cover types where the species of secondary abundance is:
  - (i) Engelmann spruce;

- (ii) grand fir; or
- (iii) western red cedar.

(61) "Project level" means within the analysis of a proposed action under the Montana Environmental Policy Act (MEPA).

(62) "Rendezvous site" means a gathering site for members of a wolf pack used primarily for pup rearing during the summer and occasionally for security during the fall or early winter.

(63) "Restricted road" (in areas other than grizzly security core) means a road on which motorized vehicle use shall be restricted seasonally or yearlong.

(a) Such roads require physical obstruction, generally a gate, and motorized vehicle use is legally restricted.

(b) Low-level motorized administrative use by personnel of resource management agencies, their contractors, and their permittees shall be acceptable. Low-levels are defined as:

(i) ongoing use of, on average, less than seven vehicle passes per week; or

(ii) use greater than six vehicle passes per week, but for a duration of less than 31 days.

(c) The following uses shall be allowed on restricted roads, and shall not be considered in calculation of use level:

(i) fire suppression;

(ii) unforeseen events involving human safety;

(iii) activities potentially beneficial to bears of duration less than two weeks that include monitoring, tree planting and prescribed burning.

(64) "Riparian management zone (RMZ)" means an additional area of streamside buffer established when forest management activities are proposed on sites with high erosion risk or on sites that are adjacent to fish bearing streams or lakes.

(65) "Road" means all created or evolved routes that are greater than 500 feet long, which are reasonably and prudently drivable with a conventional passenger car or pickup.

(66) "Road closure" means gates, berms, debris, or other facilities necessary to close existing roads to motorized public use.

(67) "Road construction" means cutting and filling of earthen material that results in a travel-way for wheeled vehicles.

(68) "Road in security core areas" (grizzly bear) means roads within security core areas that have permanent closure devices (unless the security core designation is removed).

(a) Examples of such closure devices shall include but are not limited to:

- (i) tank traps;
- (ii) large boulders; and
- (iii) dense vegetation.

(69) "Road maintenance" means maintenance and repair of existing roads that are accessible to motorized use, including but not limited to:

- (a) blading;
- (b) reshaping; or
- (c) resurfacing the road to its original condition;
- (d) cleaning culverts;
- (e) restoring and perpetuating road surface drainage features; and
- (f) clearing the roadside of brush.

(70) "Road reconstruction" means upgrading road to accommodate proposed use.

(71) "Salvage" means the removal of dead trees or trees being damaged or killed by injurious agents other than competition, to recover value that would be otherwise lost.

(72) "Saplings" means trees with DBH from one to 4.99 inches.

(73) "Sawtimber" means size class comprised of trees greater than or equal to nine inches DBH.

(74) "Seasonally secure area" means an area of high seasonal habitat quality that is seasonally secure from:

- (a) motorized access and high non-motorized use; and
- (b) approximates in size that portion of a female grizzly bear's home range where a concentration of use is expected to occur.

(75) "Security core areas" means areas typically greater than 2,500 acres that during the non-denning period:

- (a) are free of motorized access;
- (b) consider the geographic distribution of seasonal habitats important to grizzly bears;
- (c) remain in place for long periods, preferably 10 years; and
- (d) are at least 0.3 mile from the nearest access route that can be used by a motorized vehicle.

(76) "Seedling" means trees with DBH less than one inch.

(77) "Silvicultural systems" means treatments applied to forest stands to accomplish specific goals.

(a) This term includes, but is not limited to:

- (i) even-aged regeneration treatments;
- (ii) uneven-aged treatments; and
- (iii) commercial thinning.

(78) "Silviculture" means the art and science of managing trees and forests for specific objectives. Silviculture entails the manipulation of forest and woodland vegetation in stands and on landscapes to meet the diverse needs and values of landowners and society on a sustainable basis.

(79) "Simple linear calculation" means road mile distance divided by the number of 640 acre sections in a given analysis area.

(80) "Site index" means the height of free to grow trees at a specific base age of 50 years.

(81) "Site potential tree height" means the average height of the dominant or co-dominant trees of a stand for a given age based on site index.

(82) "Sites with high erosion risk" means sites located on highly erodible soils or subject to conditions that result in higher risk of erosion.

(a) Examples of highly erodible soils are non-cohesive sands such as:

- (i) granitics; and
- (ii) silts with low rock content.
- (b) Conditions leading to high erosion risk include:
  - (i) those areas that are susceptible to mass wasting;
  - (ii) those areas already exhibiting high levels of erosion; or
  - (iii) severely burned areas where:
    - (A) bare mineral soil is exposed; or
    - (B) hydrophobic conditions occur.

(83) "Slash" means the woody debris that is dropped to the forest floor during forest practices and consists of:

- (a) stems;
- (b) branches;
- (c) twigs; and
- (d) leaves.

(84) "Stream" means a natural watercourse of perceptible extent that has a generally sandy or rocky bottom or definite banks and that confines and conducts continuously or intermittently flowing water.

(85) "Streamside management zone or SMZ" means the stream, lake or other body of water and an adjacent area of varying width where management practices need to be modified if they might affect wildlife habitat, water quality, fish, or other aquatic resources. The SMZ encompasses a strip at least 50 feet wide on each side of a stream, lake, or other body of water, measured from the ordinary high-water mark, and extends beyond the high-water mark to include wetlands and areas that provide additional protection in zones with steep slopes or erosive soils.

(86) "Temporary non-lynx habitat" means:

- (a) seedling stands;
- (b) sapling to old age class stands with less than 40% canopy closure;
- (c) non-stocked clearcuts; and
- (d) stand-replacement burns which are likely to develop future habitat characteristics through forest succession that are important to lynx.

(87) "Total road density" means the percentage of a defined grizzly bear analysis area that exceeds two miles of:

- (a) open roads;
- (b) restricted roads; and
- (c) motorized trails per square mile.

(88) "Urban/forestland interface" means lands managed by the department where proximity to human habitation warrants special consideration.

(89) "Unique and rare habitats" means a designation applied to areas of wetlands, caves, archeological sites, patches of threatened or endangered plants, or as required by state or federal law.

(90) "Visual obstruction" means that at least 90% of an adult grizzly bear is hidden from view.

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(91) "Visual screening" (grizzly bear) means vegetation and/or topography providing visual obstruction that makes it difficult to see into adjacent areas from the roadbed. The distance required to provide visual screening, typically 100 feet, is dependent upon the type and density of cover available.

(92) "Water quality limited water body" means a water body considered by the Montana department of environmental quality to be impaired, and included on the most recent version of the Montana 303(d) list.

(93) "Well stocked" means stands with:

(a) seedlings up to 0.99 inch DBH occurring at densities greater than 600 trees per acre;

(b) sapling trees one to 4.99 inches DBH occurring at densities greater than 300 trees per acre;

(c) pole trees five to 8.99 inches DBH providing crown canopy densities of greater than 69%; or

(d) sawtimber trees greater than or equal to nine inches DBH providing a crown canopy density of greater than 69%.

(94) "Wetland management zone or WMZ" means a specified area adjacent to and encompassing an isolated wetland or adjacent to a wetland located next to a stream, lake, or other body of water where specific resource protection measures are implemented.

(95) "Wetlands" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions.

(a) Wetlands include:

(i) marshes;

- (ii) swamps;
- (iii) bogs; and
- (iv) similar areas.

(96) "Young foraging habitat" (lynx) means conifer seedling and sapling stands within lynx habitat with average height greater than or equal to six feet and density greater than or equal to 4,000 stems per acre. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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#### 36.11.404 BIODIVERSITY - COARSE FILTER APPROACH

(1) The department shall promote biodiversity by taking a coarse filter approach thereby favoring an appropriate mix of stand structures and compositions on state lands. The department shall base appropriate stand structures and compositions on ecological characteristics such as:

- (a) land type;
- (b) climatic section;
- (c) habitat type;
- (d) disturbance regime; and
- (e) unique characteristics.

(2) For coarse filter applications, the department shall describe forests and stands using these characteristics:

- (a) forest composition;
- (b) age class distributions;
- (c) cover type; and
- (d) stand structure. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

#### 36.11.405 BIODIVERSITY - DESIRED FUTURE CONDITIONS

(1) The department shall use a site-specific model that incorporates ecological characteristics through habitat and

cover types to describe cover type representation. Cover type is one characteristic that describes desired future conditions. When run at the administrative unit level, the model describes a desired future condition in terms of cover type representation. The cover types defined are white pine, ponderosa pine, Douglas-fir, western larch/Douglas-fir, lodgepole pine, mixed conifer, and subalpine types. Where data do not allow unit-level descriptions, then project-level data and descriptions will be utilized.

(a) The model indicates the approximate number of acres of each cover type that represents a desired future condition for the unit as a whole. Treatments shall be determined at the project level. The department shall use local knowledge to improve estimates as necessary, such as identification of hardwood cover types as a desired future condition.

(i) The following describes the model referred to in (1). Each stand is tested sequentially against the following criteria. Once a stand is assigned it does not go through any of the subsequent steps.

(A) If white pine makes up 10% or greater of any of the four main species, the white pine type is assigned.

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(B) If ponderosa pine makes up over 20% of the cover, the ponderosa pine cover type is assigned.

(C) If western larch represents a minimum of 10% of the stand, or any stand that has at least 30% cover represented by western larch and Douglas-fir, the western larch/Douglas-fir type is assigned.

(D) If Douglas-fir represents 50% or greater, the Douglas-fir type is assigned.

(E) If lodgepole pine represents 40% or greater, the lodgepole pine type is assigned.

(F) If the stand is not yet assigned and the habitat type is greater than 630, the subalpine type is assigned.

(G) All remaining stands are assigned to the mixed conifer type.

(b) The department shall consider stands in all age classes for treatment to promote appropriate conditions. One tenet of achieving biodiversity goals at the landscape level is the presence of stands in all age classes.

(c) The department shall select desired future stand structural conditions at the project level, and shall consider disturbance regimes in terms of frequency and severity (see ARM 36.11.408). The department shall assess stand structure at the project level and track quantities of various structures at the unit level, to the extent data are available.

(i) The department shall use the stand structure definitions as described in the department's stand level inventory. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

#### 36.11.406 BIODIVERSITY - FINE FILTER APPROACH

(1) Because it cannot assure that the coarse filter approach will adequately address the full range of biodiversity, the department shall also employ a fine filter approach for threatened, endangered, and sensitive species (see ARM 36.11.428 through 36.11.432), that focuses on a single species' habitat requirements to the extent consistent with the Endangered Species Act, 16 U.S.C Sections 1531 through 1544 and 77-5-116, MCA.

(a) The department shall manage for a desired future condition that promotes a diversity of habitat conditions beneficial to wildlife. The fine filter shall support habitat requirements of threatened, endangered, and sensitive wildlife and plant species. Where the coarse filter and fine filter appear to be at odds, the department shall move toward the conditions defined in ARM 36.11.405 consistent with its fiduciary obligations owed to the trust beneficiary. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; 2003 MAR p.397, NEW, 2003 MAR p.397, Eff. 3/14/03.)

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FOREST MANAGEMENT

36.11.407

#### 36.11.407 BIODIVERSITY - MANAGEMENT ON BLOCKED LANDS

(1) Within areas of large, blocked ownership, the department shall manage for a desired future condition that can be characterized by the proportion and distribution of forest types and structures historically present on the landscape.

(2) A typical analysis unit shall be the administrative unit wherein the department shall focus on maintaining or

restoring a range of the forest conditions that would have naturally been present given topographic, edaphic, and climatic characteristics of the area, and considering fiduciary and other obligations.

(a) Among the forest conditions the department shall typically consider are:

- (i) successional stage;
- (ii) species composition;
- (iii) stand structure;
- (iv) patch size and shape;
- (v) habitat connectivity and fragmentation;
- (vi) disturbance regime;
- (vii) old-growth distribution and attribute levels; and
- (viii) habitat type.

(3) The department shall design timber harvests to promote long-term, landscape-level diversity through an appropriate representation of forest conditions across the landscape as described in ARM 36.11.404. Where state ownership contains forest conditions made rare on adjacent lands by the management activities of others, the department may not necessarily maintain those conditions in amounts sufficient to compensate for their loss when assessed over the broader landscape, except as it coincides with other agency objectives.

(a) However, if state ownership contains rare or unique habitat elements, as previously defined in ARM 36.11.403 occurring naturally, the department shall manage so as to retain those elements, to the extent it is consistent with fiduciary duties owed to the beneficiary. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.408      BIODIVERSITY - SELECTION OF SILVICULTURAL  
SYSTEMS

(1) Selection of silvicultural systems shall typically be based on natural disturbance regimes. The three predominant regimes are:

- (a) stand-replacement fire;
- (b) mixed severity fire; and
- (c) non-lethal fire.

(2) Other disturbance mechanisms which may be predominant on a site and shall be considered when selecting treatments include, but are not limited to:

- (a) insects;
- (b) disease; and
- (c) wind.

(3) The department shall consider the range of disturbance regimes possible for any site to avoid inflexible and inappropriate treatments.

(4) The department shall consider objectives that may suggest emulating a disturbance event that does not adhere to the predominant regime.

(5) When emulating a stand-replacement disturbance, the department shall leave some scattered or clumped standing live trees. Silvicultural systems that equate to stand-replacement are clearcut and seed tree.

(a) The department shall consider the patchy distribution of surviving trees following natural disturbance, and emulate that condition to the extent practicable.

(b) Actual numbers and distribution of live trees retained in emulations of stand replacement disturbances shall be site-specifically determined (see ARM 36.11.411).

(c) Larger proportions of early successional stands will typically be present with these regimes than with other regimes.

(6) Silvicultural systems that emulate mixed severity regimes are modified shelterwood and group selection.

(a) Retained trees shall be from among those that would most likely have survived the disturbance, and in an arrangement typical for the disturbance, as appropriate for meeting fiduciary and project-level objectives.

(b) With most mixed severity treatments, the department shall open the stand enough for natural regeneration of shade intolerant species, or sufficiently so that inter-planted seedlings have the opportunity to survive.

(c) Clumps of small shade tolerant species may be appropriate for retention.

(d) Greater range in stand variability is typical of this regime, including clumps of similar age classes within multi-aged stands.

(7) Selection harvests shall be designed or developed to maintain uneven-aged conditions when emulating non-lethal underburns.

(a) The department shall design these treatments to ensure regeneration of shade intolerant species through natural regeneration or through planting of desired species.

(b) This regime will have higher proportions of older age classes and fewer early successional stands.

(c) The department shall generally avoid treatments that attempt to impose uneven-aged conditions on areas that traditionally existed in an even-aged condition.

(8) The department shall design selection systems or commercial thinnings when emulating single-tree or gap replacement disturbances. Such treatments do not fit within typical fire based disturbance regimes, but shall be used by the department as determined applicable at the project level. In such cases, the department does not expect regeneration of shade intolerant species and may not desire regeneration of any species. Two potential situations for this type of treatment are:

(a) commercial thinning to promote growth of residual trees; or

(b) individual tree selection in mixed stands of shade-tolerant species where, under natural conditions, individual trees died and subsequently fell, creating a gap in the canopy.

(9) Where fire is the predominant disturbance mechanism, the department shall consider:

(a) how fire may have burned in a particular location, and under site-specific conditions including:

- (i) topography;
- (ii) climatic zones; and
- (iii) prevailing winds.

(b) using existing stand boundaries from previous fires to enhance a natural appearance, to the extent they coincide with boundaries expected from natural disturbance regimes. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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FOREST MANAGEMENT

36.11.411

36.11.409 BIODIVERSITY - SALVAGE HARVESTING (1) Salvage of dead and dying material shall be conducted pursuant to 77-5-207, MCA. Salvage shall occur using site-specific assessment of the economic and ecological consequences, when the material left will be taken by firewood cutters, contribute to spread of insect and disease problems, or pose a human safety concern. The department shall recognize the role this material plays in maintaining biodiversity. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.410 BIODIVERSITY - NUTRIENT RETENTION (1) For nutrient retention purposes, treatments shall minimize the amount of fine branches and leafy material removed from the site.

(2) Whole tree skidding shall be discouraged, unless measures are taken to retain nutrients on site. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.411 BIODIVERSITY - SNAGS AND SNAG RECRUITS (1) The department shall retain snags and snag recruits in all harvest units involving live timber, including seed tree removals, fire, and other salvage operations as follows:

(a) On the warm and moist HTG and the wet HTG, the department shall retain an average of approximately two snags and two snag recruits over 21 inches DBH, per acre.

(b) On all other HTG, the department shall retain an average of approximately one snag and one snag recruit over 21 inches DBH, per acre.

(c) In all cases, if snags or recruits over 21 inches DBH are not present, the next largest size snag or recruit shall be retained.

(d) Retained snags and recruits may be evenly distributed or clumped.

(e) If there is an absence of sufficient snags or recruits, some substitution between the two may occur.

(f) Cull trees shall qualify as recruits provided they do not contribute to:

(i) insect and disease problems;

(ii) pose a human safety issue; or

(iii) present concerns over dysgenic practices.

(History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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36.11.412

DEPARTMENT OF NATURAL RESOURCES

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36.11.412 BIODIVERSITY - MANAGEMENT AT THE URBAN/FOREST LAND INTERFACE (1) In the urban/forest land interface, the department may diverge from other forest management rules as defined in ARM 36.11.404 through 36.11.450, if the following overriding concerns are identified at the project level:

(a) public safety, including the potential for loss or damage to critical power or communications systems;

(b) fire hazard; or

(c) adherence to the rules would yield undesirable results due to activities of others beyond the department's control, for example snags left for biodiversity reasons near open roads or housing, are likely to be harvested by firewood gatherers thus not fulfilling department objectives.

(2) The department shall consider the consequences of retaining snags and snag recruits that may be readily removed by the public for firewood, or that pose a public safety hazard. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.413 BIODIVERSITY - RETENTION OF CULL MATERIAL

(1) Cull live trees, and cull snags (less than 33% sound for both live trees and snags) shall be retained giving due

36.11.414 BIODIVERSITY - RETENTION OF COARSE WOODY DEBRIS (1) Adequate CWD shall be left on site to facilitate nutrient conservation and cycling, maintenance of biodiversity, wildlife needs, and other considerations.

36.11.415 BIODIVERSITY - PATCH SIZE AND SHAPE (1) The department shall emulate natural spatial patterns of patch size and shape to the extent practicable. Underlying processes and their resultant pre-management patterns shall be taken into account in design of projects while recognizing that previous management activities may have altered the landscape through fragmentation or disruption of linkages. The department shall consider the effects of fragmentation and connectivity at the project level.

(2) The department shall consider other factors that influence the ability to emulate natural spatial patterns, including public sentiments, and other resources. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

(1) On areas of smaller, and/or scattered ownership, the department shall base management on restoring a semblance of historic conditions within state ownership.

(2) Where state ownership contained forest conditions made rare on adjacent lands due to the management activities of others, the department shall not necessarily maintain those conditions in amounts sufficient to compensate for their loss when assessed over the broader landscape, except as it coincides with other department objectives.

(3) However, if state trust lands contain rare or unique habitat elements occurring naturally (e.g., bog, patches of a rare plant), the department shall manage so as to retain those elements.

(4) On scattered parcels, treatments shall be determined at the project level.

(5) The department shall apply the model referred to under ARM 36.11.404 at the administrative unit level, to the extent data are available.

(6) Silvicultural considerations listed under ARM 36.11.404 through 36.11.405, and 36.11.417 and 36.11.418 shall be applicable with 36.11.416. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.417 BIODIVERSITY - COOPERATIVE PLANNING (1) The department shall make reasonable efforts, in its sole discretion, to pursue cooperative planning with major adjoining landowners. The objectives of cooperative planning shall be to maintain appropriate amounts and distribution of stand structures and species mixtures to promote biodiversity at a landscape level, and to equitably maintain or promote trust revenue opportunities over the long-term.

(a) Cooperative plans shall be evaluated as needed, to monitor how successfully they are being implemented, and to determine if continued participation is warranted. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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FOREST MANAGEMENT

36.11.418

36.11.418 BIODIVERSITY - OLD GROWTH MANAGEMENT (1) The department shall manage old growth to meet biodiversity and fiduciary objectives. The department shall consider the role of all stand age classes in the maintenance of biodiversity when designing harvests and other activities. Stand age distributions, including old growth, shall be evaluated and managed as described in ARM 36.11.407 through 36.11.416 based on the patterns historically present on the landscape as a result of natural disturbances. Amounts and distributions of all age classes will shift and change over time. No stands

would be permanently deferred from management, although some stands may not be entered for relatively long time periods.

(a) The department shall identify old growth that occurs in a project area. Old growth stands shall be managed to achieve biodiversity objectives, including possible harvest. The department shall consider site-specific concerns and other legal criteria regarding the harvest of old growth. Interdisciplinary teams shall work to meet overall objectives to generate revenue for the trust, while also meeting biodiversity goals across the landscape, which shall entail project-level harvesting decisions.

(b) Designation of old growth set-asides, or networks, may be made as long as the trust secures full market value.

(c) When managing old growth the department shall apply restoration, maintenance, or removal treatments consistent with the range of natural disturbances.

(i) When utilizing old growth restoration treatments, the department shall retain sufficient large live trees to meet the old growth definition as defined in ARM 36.11.403. Such treatments shall be applicable on sites that historically had non-lethal frequent fire regimes. The department shall target shade tolerant species for removal and overall stand density shall be reduced. The department shall treat stands with periodic re-entry, and prescribed under-burning when practicable, to maintain relatively low densities, open understories and dominance by shade-intolerant species. The department shall determine specific prescriptions at the project level.

(ii) When utilizing old growth maintenance treatments, the department shall retain sufficient large live trees to

meet the old growth definition as defined in ARM 36.11.403. The department shall apply such treatments on sites that historically had mixed severity fire regimes, either relatively frequent or infrequent. In some cases, the department may apply these treatments to stand replacement regimes when determined reasonable at the project level. The department shall target shade tolerant species for removal and reduce stand density. For residual stands, the department shall incorporate canopy gaps of sufficient size to encourage regeneration of shade-intolerant tree species. The department shall treat stands with periodic re-entry at less frequent intervals than for restoration. Densities and representation of shade-tolerant species will be higher than in restoration treatments. Fire shall be less frequently applied than in restoration treatments. The department shall determine specific prescriptions at the project level.

(iii) The department shall consider old growth removal treatments on sites that historically had stand replacement fire regimes. The department shall make selection of this treatment at the project level after considerations for biodiversity and forest health. Post treatment stands shall no longer qualify as old growth. The department shall determine specific prescriptions at the project level.

(d) The department shall maintain the option to apply or to not apply old growth removal treatments, regardless of disturbance regime, when determined reasonable at the project level. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.419 BIODIVERSITY - FIELD REVIEWS (1) The department shall field review a subset of forest management activities after project completion, or every five years for ongoing projects, to evaluate the application of biological diversity measures at a stand and landscape level.

(2) The department shall check landscape evaluations to compare actual effects of management activities and natural processes against desired or predicted effects to the extent practicable.

- (3) The department shall evaluate trends in:
  - (a) forest cover characteristics;
  - (b) habitat values;
  - (c) insect and disease activity; and
  - (d) other natural disturbances.
- (4) The department shall complete biodiversity field reviews. The reviews shall focus on:
  - (a) general landscape and stand level considerations;
  - (b) implementation of the coarse filter;
  - (c) emulations of natural processes and disturbance regimes in treatment selection;
  - (d) threatened and endangered species; and
  - (e) other such considerations.
- (5) The department shall summarize biodiversity field reviews in a monitoring report to the state board of land commissioners every five years.
- (6) The department shall quantify forest cover conditions, including cover types and age class distributions, annually at the unit level using data from the department's forest management bureau's stand level inventory system. Every five years the reports shall be submitted as part of the monitoring report to the state board of land commissioners.
- (7) Results of monitoring shall be used to help plan follow-up and future activities in the evaluation area, and to improve the department's ability to predict the effects of activities in similar situations elsewhere. Monitoring shall be frequent enough to accomplish these purposes effectively. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.420 SILVICULTURE (1) The department shall design all prescribed silvicultural treatments to maintain the long-term productivity of the site in order to ensure the long-term capability to produce trust revenue.

(2) The department shall evaluate ecological characteristics of the site and use the characteristics to develop stand management regimes that are compatible with the site.

(3) The department shall design management regimes to address:

- (a) stand structures and development;
- (b) species mixtures;

- (c) silvicultural systems; and
- (d) time periods for reforestation.

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(4) Suitable management regimes shall be those that realize the productive capability of the site for producing desired products and benefits and minimize the risk of losses to biotic or abiotic agents (e.g., wind-throw, micro-climate changes).

(5) The department shall maintain and improve the long-term quality of the genetic base in terms of growth, form, and adaptation of tree species.

(6) The department shall maintain diversity of species, ages, and structure within or between stands, in order to maintain a complex and stable ecosystem that would be buffered against losses to:

- (a) insects;
- (b) disease;
- (c) wildfire; and
- (d) climatic elements.

(7) The department shall prepare silvicultural prescriptions for all planned treatments. These prescriptions shall be written to accomplish the following objectives in a clear and organized manner that:

- (a) guides department personnel in the correct implementation of the prescribed treatments;
- (b) provides a record of the objectives and details of prescribed treatments for future reference; and
- (c) moves stands toward the selected desired future condition.

(i) The department will identify potential future treatments recognizing that conditions may change prior to implementation of those treatments.

(8) The department shall prescribe silvicultural treatments to meet other resource management rules and comply with all appropriate statutes and regulations. This requires coordination of treatments between stands in order to achieve parcel or landscape level goals for distribution of:

- (a) stand composition;

- (b) size;
- (c) stocking; and
- (d) structure characteristics.

(9) The department shall monitor the effectiveness of completed silvicultural treatments at meeting treatment objectives. Specific purposes of the silvicultural monitoring shall be to:

- (a) identify promptly the need for follow-up treatments in order to meet treatment objectives and environmental commitments;

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36.11.420

- (b) provide information for improving the effectiveness of future silvicultural practices; and

- (c) identify potential improvements to the silviculture rules.

(10) In all stands where a regeneration cut has been applied, the department shall complete a regeneration survey promptly to ensure that treatment objectives and environmental commitments are met.

(11) In planted stands, the department shall complete a survival survey the first fall after planting.

(a) When regeneration is a goal, the department shall prescribe site preparation treatments to provide for adequate vegetation control including, but not limited to, the following:

- (i) herbicides;
- (ii) mechanical scarification; and
- (iii) broadcast burning.

(12) The department shall conduct stand evaluations prior to each scheduled entry and after each completed treatment.

(a) Evaluation methods and intensity shall be sufficient to provide information necessary for developing appropriate silvicultural prescriptions and for evaluating treatment results in terms of the prescribed objectives.

(13) The department shall maintain information on the dates and types of completed treatments and activities.

(14) The department shall maintain information on costs of intermediate silvicultural treatments including, but not limited to:

- (a) planting;

- (b) site preparation;
- (c) slash reduction; and
- (d) pre-commercial thinning. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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36.11.421 ROAD MANAGEMENT (1) The department shall plan transportation systems for the minimum number of road miles.

(a) The department shall only build roads that are necessary for current and near-term management objectives, as consistent with the other forest management rules.

(b) The department shall evaluate and use alternative yarding systems that do not require roads whenever possible.

(2) The department shall conduct transportation planning as part of landscape-level evaluations. The department shall also conduct an evaluation of existing and possible future transportation systems prior to road location and design. When planning transportation, the department shall consider:

(a) the relationship of access routes and road systems on adjacent sections, regardless of ownership. Managers shall plan systems cooperatively with adjacent landowners whenever practicable to minimize road construction.

(b) planning road systems cooperatively with adjacent landowners whenever practicable to minimize road construction.

(c) existing and probable future management needs of the tributary area, such as:

- (i) coordination of department needs with adjacent ownership needs;
  - (ii) public access;
  - (iii) logging system capabilities;
  - (iv) forest improvement activities;
  - (v) fire protection; and
  - (vi) wildlife habitat protection.
- (d) value(s) of resources being accessed for the proposed project as well as resources to be accessed from future road construction, road use or extension of transportation system.
- (3) When planning the location, design, construction, and maintenance of all roads, the department shall:
- (a) comply with BMP as necessary to avoid unacceptable adverse impacts or as funding is available to implement improvements to existing roads;
  - (b) build roads to the minimum standard necessary to best meet current and future management needs and objectives;
  - (c) manage roads to minimize maintenance;
  - (d) relocate existing roads if reconstruction, maintenance and/or use of existing roads would produce greater undesirable impacts than new construction; and
  - (e) use existing roads in SMZ only if potential water quality impacts can be adequately mitigated. The department shall primarily consider economic and watershed implications of relocating roads outside the SMZ.

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- (4) The department shall write contract specifications and administer construction projects to ensure roads are built as designed and to meet resource protection requirements.
- (5) The department shall maintain roads commensurate with expected road use and appropriate resource protection.
- (6) The department shall also maintain drainage structures and other resource protection measures on both restricted and open roads.
- (7) The department shall include adequate maintenance requirements, proportional to road use, in all agreements for granting and acquiring rights-of-way, and the requirements shall be enforced during the administration of those agreements.

(8) The department shall plan road density to satisfy project level objectives, landscape-level plans and other forest management rules.

(9) The department shall determine which roads to close, abandon, or obliterate during project level analysis.

(10) The department shall consider closure or abandonment of roads accessible to motorized vehicles:

(a) that are non-essential to near-term future management plans; or

(b) where unrestricted access would cause excessive resource damage.

(i) In the Swan River state forest, the department shall plan road closures in accordance with the terms of the Swan Valley Grizzly Bear Conservation Agreement, dated February 23, 1995.

(11) The department shall consider for abandonment roads that are deemed non-essential. The department shall leave abandoned roads in a condition that provides adequate drainage and stabilization, while leaving intact the road prism and capital investment needed to construct that road.

(12) The department shall assess road maintenance needs by inspecting conditions on both open and closed roads every five years. The department shall then prioritize maintenance operations considering the results of the inspections.

(13) The department shall inspect existing road systems during the planning and review of proposed timber sales and other projects. The inspections are intended to provide information used for:

(a) road planning;

(b) construction and maintenance; and

(c) giving an opportunity for the correction of problem areas by incorporating corrective measures into planned projects.

(14) The department shall inspect road closure structures, such as gates and earth berms, as part of ongoing administrative duties and in response to notice of ineffective road closures received from the public. The department shall repair or modify ineffective closures or consider alternative methods of closure. Inspections would occur at least every five years. Repairs would be a high priority when allocating

time and budget. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.422 WATERSHED MANAGEMENT (1) The department shall manage watersheds to maintain high quality water that meets or exceeds state water quality standards and protects designated beneficial water uses.

(2) The department shall incorporate BMP's into the project design and implementation of all forest management activities.

(a) BMP's appropriate for a given project or situation shall be determined during project development and environmental analysis. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.423 WATERSHED MANAGEMENT - CUMULATIVE EFFECTS

(1) The department shall include an assessment of cumulative watershed effects on projects involving substantial vegetation removal or ground disturbance. Using the analysis, the department shall ensure that the project will not increase impacts beyond the physical limits imposed by the stream system for supporting its most restrictive beneficial use(s), when considered with other existing and proposed state activities for which the scoping process has been initiated. The analysis shall identify opportunities, if any exist, for mitigating adverse effects on beneficial water uses.

(a) The department shall determine the necessary level of cumulative watershed effects analysis on a project level basis. The level of analysis shall depend on the:

- (i) extent of the proposed activity;
- (ii) level of past activities; and
- (iii) beneficial uses at risk.

(b) The department shall complete a coarse filter screening on all projects involving substantial vegetation removal or ground disturbance. Except for small-scale projects with very low potential for impacts, additional analysis shall be required.

(c) The department shall complete a preliminary watershed analysis on projects when coarse filter evaluations determine there is anything other than low potential for cumulative impacts.

(d) The department shall complete a detailed watershed analysis when coarse filter screening or preliminary analysis predict or indicate the existence of unacceptable cumulative watershed effects as a result of the proposal.

(e) The department shall establish threshold values for cumulative watershed effects on a watershed level basis.

(f) The department shall determine thresholds for cumulative watershed effects by taking into account such items as:

- (i) stream channel stability;
- (ii) beneficial water uses; and
- (iii) existing watershed conditions.

(iv) The department shall set threshold values at a level that ensures compliance with water quality standards and protection of beneficial water uses with a low to moderate degree of risk.

(g) The department shall set threshold values for cumulative effects associated with projects proposed in the watershed of a water quality limited water body at a level that provides for protection of beneficial water uses with a low degree of risk.

(2) Whenever feasible, the department shall cooperate with other landowners in watersheds with mixed ownership to minimize cumulative watershed effects within acceptable levels of risk. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.424 WATERSHED MANAGEMENT - MONITORING (1) The department shall develop and maintain a monitoring strategy to assess watershed impacts of land use activities and the effectiveness of mitigation measures. The monitoring strategy shall include:

(a) qualitative assessments, such as BMP audits, on most projects with a substantial amount of soil disturbance. For future applications, the department shall revise BMP's that fail to provide adequate protection;

(b) site-specific monitoring projects using quantitative assessment methods on selected sites to determine the effectiveness of BMP's and other commonly applied mitigation measures;

(c) assessments of habitat conditions on selected streams identified as supporting the fish species listed as threatened or endangered under the Endangered Species Act, 16 U.S.C. Sections 1531 through 1544, and sensitive fish species;

(d) evaluations of the effects of forest management activities on soils at selected sites; and

(e) an inventory and analysis of watershed impacts on state trust lands as funding allows.

(i) If conducted, the analysis shall be sufficient to identify causes of watershed degradation and set priorities for watershed restoration. The department shall emphasize mitigation of existing water quality impacts in order to provide greater opportunities to produce trust income while maintaining beneficial uses.

(2) If watershed, soil, or fisheries monitoring indicate unacceptable impacts resulting from forest management activities, the department shall attempt to verify the problem, and correct or mitigate it to an acceptable level. When necessary, the department shall use the information collected to revise mitigation measures and/or modify future activities to avoid similar problems.

(3) The department shall participate in cooperative watershed monitoring effort with other agencies, public entities and private parties, where practical, when funding is available, and when the cooperative monitoring objectives are consistent with department monitoring objectives. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.425 WATERSHED MANAGEMENT - STREAMSIDE MANAGEMENT ZONES AND RIPARIAN MANAGEMENT ZONES

(1) The department shall establish a riparian management zone (RMZ) adjacent to the minimum width of the SMZ required under ARM 36.11.302 when forest management activities are proposed on sites with high erosion risk or on sites that are adjacent to fish bearing streams or lakes.

(2) The department shall determine the presence of high erosion risk from:

(a) established soil surveys;

- (b) existing inventories; or
- (c) site-specific field evaluations.
- (3) When the department proposes forest management activities on sites determined to have high erosion risk:
  - (a) the department shall establish an RMZ with a minimum of 100 feet when activities are located on slopes greater than 25% but less than 35%;

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(b) the department shall establish an RMZ with a minimum of 150 feet when activities are located on slopes greater or equal to 35%, but less than 50%;

(c) the department shall establish an RMZ with a minimum of 200 feet when forest management activities are located on slopes greater or equal to 50%; and

(d) the department may modify and shorten RMZ widths established for high erosion risk when topographic breaks, existing roads or other factors are present that reduce erosion risk and provide suitable sediment delivery filtration. Modified or shortened RMZ's must still meet the minimum width of the SMZ required under ARM 36.11.302.

(4) The following restrictions apply to forest management activities conducted within an RMZ established for high erosion risk:

(a) The department shall limit new road construction within an RMZ to situations in which:

- (i) a stream crossing is required;
- (ii) potential impacts can be adequately mitigated; or
- (iii) alternative locations pose higher risk of resource impacts.

(b) The department shall restrict ground based equipment operations within the RMZ.

(i) The department shall not allow the operation of wheeled or tracked equipment within an RMZ when it is located on slopes greater than 35%.

(ii) The department shall not allow the operation of wheeled or tracked equipment within an RMZ when it is located on slopes less than 35%, unless the operation can be conducted without causing excessive compaction, displacement or erosion of the soil.

(iii) The department may allow the use of wheeled or tracked equipment inside of that portion of an SMZ or RMZ when operated from an established road on the side of the road away from the stream pursuant to ARM 36.11.304.

(c) The department shall restrict cable yarding of logs within and across an RMZ to cable systems and operations that do not cause excessive ground disturbance within the SMZ or RMZ.

(5) The department shall design harvest prescriptions conducted in SMZ's and RMZ's located adjacent to fish bearing streams to retain adequate levels of shade and potential large woody debris recruitment to the stream channel by:

(a) establishing an RMZ that when combined with the SMZ has a minimum slope distance equal to the site potential tree height of the proposed harvest stand at age 100 years;

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(b) determining site potential tree height from site index curves developed for local or regional forest types; and

(c) determining site index of a stand by measuring tree height and age directly from suitable index trees located at the approximate minimum SMZ width.

(6) The department shall determine adequate levels of shade retention on a project level basis.

(a) Adequate levels are those levels that maintain natural water temperature ranges.

(7) The department shall determine adequate levels of large woody debris retention on a project level basis.

(a) Adequate levels are those levels that maintain stream channel form and function.

(8) The department shall retain all bank edge trees on timber harvests conducted adjacent to streams.

(9) Timber harvests within the SMZ and RMZ of a stream, lake, or other body of water supporting bull trout or any other fish or aquatic species listed under the Endangered Species Act, 16 U.S.C Sections 1531 through 1544, the department shall act pursuant to ARM 36.11.427.

(10) The department shall use existing roads in the SMZ or RMZ only if potential water quality impacts are adequately mitigated and beneficial uses are fully protected. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-

5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.426 WATERSHED MANAGEMENT - WETLAND MANAGEMENT ZONES

(1) The department shall establish a WMZ when forest management activities are proposed within or adjacent to an isolated wetland or adjacent to a wetland found within an SMZ.

(a) For isolated wetlands greater than 0.25 acre the WMZ boundary shall be 50 feet.

(b) For isolated wetlands smaller than 0.25 acre the WMZ boundary shall only include the wetland itself.

(c) For wetlands found within a SMZ, the WMZ boundary shall be 50 feet.

(2) The department shall meet all requirements of ARM 36.11.301 through 36.11.312 when conducting forest management activities within wetlands that are located within or intercepting an SMZ boundary.

(3) The criteria the department will use to identify wetlands are:

- (a) plant species composition;
- (b) soil characteristics; or
- (c) depth of water table.

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(4) The presence of one or more field indicators for any of the three following criteria shall be adequate for wetland designation:

(a) The department shall consider a site to meet the wetland plant species composition criteria for wetland identification if, under normal circumstances, more than 50% of the dominant plant species from all strata occupying the site are classified as:

- (i) obligate wetland;
- (ii) facultative wetland; or
- (iii) facultative species.

(b) The department shall consider a site to meet the wetland hydrology criteria if the area is:

(i) inundated either permanently or periodically to a depth at which emergent vegetation interfaces with open water; or

(ii) the soil has a frequently occurring high water table that remains within 12 inches of the surface for more than 14 consecutive days during the growing season of the prevalent vegetation.

(c) The department shall consider a site to meet the criteria for wetland soils if the soils occupying the site are classified as hydric soils.

(5) The department shall avoid the use and construction of roads in a WMZ.

(a) The department shall use existing roads or construct roads in a WMZ only if potential water quality impacts are adequately mitigated and wetland functions are maintained.

(6) The department shall restrict harvest and equipment operations within a WMZ.

(a) The department shall limit harvest and equipment operations within a WMZ to low-impact harvest systems and operations that do not cause:

- (i) excessive compaction;
- (ii) displacement; or
- (iii) erosion of the soil.

(b) The department shall limit operation of ground-based equipment in a WMZ to periods of:

- (i) low soil moisture;
- (ii) frozen soil; or
- (iii) snow covered ground conditions.

(c) Where ground based skidding through an isolated wetland is necessary, the department shall minimize the number of skidding routes and the number of passes.

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(d) The department shall restrict cable yarding of trees from within a WMZ to systems that fully suspend harvested logs; or partially suspend logs when conducted during periods of:

- (i) low soil moisture;
- (ii) frozen soil; or
- (iii) snow covered ground conditions.

(7) The department shall design harvest prescriptions in a WMZ to protect and retain shrubs and sub-merchantable trees.  
(History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP,

77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.427 FISHERIES (1) The department shall minimize impacts to fish populations and habitat by implementing the watershed, SMZ, and WMZ rules contained in ARM 36.11.422 through 36.11.426.

(2) The department shall review forest management activities proposed adjacent to streams, lakes, or other bodies of water supporting bull trout or other fish and aquatic species listed as threatened or endangered under the Endangered Species Act, 16 U.S.C. Sections 1531 through 1544, pursuant to ARM 36.11.404 through 36.11.428.

(a) The department shall make reasonable efforts, in its sole discretion, to cooperate in the implementation of conservation strategies developed by the state of Montana and United States fish and wildlife service (USFWS) for the restoration and recovery of bull trout and other listed fish species.

(i) The department shall design forest management activities to protect bull trout habitat by implementing conservation strategies pursuant to The Restoration Plan for Bull Trout in the Clark Fork River Basin and Kootenai River Basin, Montana (June 2000).

(3) As designated by the department, pursuant to ARM 36.11.436 the department shall:

(a) design forest management activities to protect and maintain:

- (i) westslope cutthroat trout;
- (ii) yellowstone cutthroat trout;
- (iii) arctic grayling; and
- (iv) all other sensitive fish and aquatic species.

(b) manage habitat supporting fish and aquatic species designated by the department as sensitive in a manner that complies with other rules concerning sensitive species.

(c) make reasonable efforts to cooperate in the implementation of state conservation strategies for the protection of:

- (i) westslope cutthroat trout;
- (ii) yellowstone cutthroat trout;

(iii) arctic grayling; and  
(iv) other fish species designated as sensitive by the department, as is practicable.

(4) When installing new stream crossing structures on fish-bearing streams, the department shall provide for fish passage as specified in 83-5-501, MCA, the Stream Protection Act (124 permits). (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.428 THREATENED AND ENDANGERED SPECIES (1) The department shall participate in recovery efforts of threatened and endangered plant and animal species. The department shall confer in its sole discretion with the United States fish and wildlife service (USFWS) to develop habitat mitigation measures.

(a) Measures may differ from federal management guidelines because the department plays a subsidiary role to federal agencies in species recovery. In all cases, measures to support recovery must be consistent with department responsibilities under the Endangered Species Act and Trust Law. The department shall work with the USFWS to amend such measures when, in the judgment of the forest management bureau chief, they are inconsistent with trust management obligations.

(b) Measures to support species recovery shall be periodically updated to implement new biological information and legal interpretations as warranted.

(2) The department shall, in its sole discretion, participate on interagency working groups established to develop guidelines and implement recovery plans for threatened and endangered species.

(a) If additional plant or animal species with habitat on state trust lands are federally listed as threatened or endangered, the department shall, in its sole discretion, participate in working groups for those species.

(b) The department shall, in its sole discretion, also participate in interagency groups formed to oversee management of recently de-listed species.

(3) The department staff shall report sightings of threatened and endangered species, except bald eagles, to respective working groups or an appropriate data repository.

(a) For bald eagles, only new nest locations shall be reported. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.429 THREATENED AND ENDANGERED SPECIES - BALD EAGLE

(1) The department shall manage for bald eagles pursuant to the Montana Bald Eagle Management Plan (1994), and the Habitat Management Guide For Bald Eagles in Northwestern Montana (1991).

(a) To guide management, the department shall use site-specific plans where they have been developed previously, if they remain applicable.

(b) Maintenance of habitat for breeding bald eagles, where no site-specific management plans are in place, shall include recognition and delineation of three management zones around each active bald eagle nest, including:

- (i) nest site area;
- (ii) primary use area; and
- (iii) home range.

(c) The department shall consider the following when conducting forest management activities within nest site areas:

(i) Mechanized activities are restricted between February 1 and August 15, unless the territory is documented as unoccupied during that breeding season, or if allowed as specified in a site-specific management plan. The department may grant exceptions for such activities as road repair, maintenance, and planting, if, following site review and documentation, activities are deemed to be:

- (A) of short duration;
- (B) outside of critical nesting periods; and
- (C) would present minimal risk to nesting adults or offspring.

(ii) The department shall not typically target bald eagle nest site areas for timber harvesting. Timber harvesting may be acceptable to perpetuate habitat characteristics preferred by bald eagles. The department shall design timber harvests to maintain the structural and ecological characteristics of the nest site area to include:

- (A) ample stocking;
- (B) large emergent trees;
- (C) snags;
- (D) a multi-storied canopy; and
- (E) vegetative screening from nearby human activity (low and high intensity).

(iii) The department shall protect such areas from firewood cutting and gathering, to the extent practicable.

(iv) Established levels of human activity (generally low intensity) may continue if the area has:

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(A) a recorded nest success of greater than 60%;  
(B) fledged at least three young during the previous five years; and  
(C) a low potential hazard rating according to the bald eagle nest survey.

(v) The department shall limit additional human activity, both low and high intensity, over which it has control between February 1 and August 15 (see the Montana Bald Eagle Management Plan of July 1994 for exceptions).

(vi) The department shall limit permanent development associated with forest management activities.

(vii) The department shall close existing roads and trails under its control to motorized use between February 1 and August 15, if:

(A) vegetative screening from the nest is insufficient to prevent undue disturbance and human use is high; or

(B) the eagles' behavioral response suggests it is necessary.

(d) The department shall include the following considerations when conducting forest management activities within bald eagle primary use areas:

(i) Limit mechanized activities between February 1 and August 15, unless the territory is documented as unoccupied during that breeding season, or if allowed as specified in a site-specific management plan. The department may grant exceptions for such activities as:

(A) road repair;

(B) maintenance; and

(C) planting if following site review and documentation, activities are deemed to:

(I) be of short duration;

(II) be outside of critical nesting periods; and

(III) present minimal risk to nesting adults or offspring.

(ii) Design timber harvests to maintain structural and ecological characteristics particularly:

- (A) ample stocking;
- (B) large emergent trees;
- (C) multi-storied canopy, if present;
- (D) snags;
- (E) potential nest trees;
- (F) perch trees;
- (G) roost trees; and
- (H) vegetative screening from areas of both low and high intensity human activity.

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(iii) Timber harvesting shall be acceptable to perpetuate habitat characteristics preferred by bald eagles. The department may conduct salvage of wind-thrown, insect-damaged, or diseased trees as long as the general site characteristics of the area are maintained.

(iv) Low intensity human activity may occur, but high intensity human activity, over which the department has control, shall not occur between February 1 and August 15, unless otherwise allowed in a site-specific management plan.

(v) Minimize permanent development associated with forest management activities.

(vi) Minimize construction of new roads, trails, and open access routes.

(e) The department shall consider the following when conducting forest management activities within the bald eagle home range:

(i) Design timber harvests to protect, and/or enhance, key habitat components that already exist in close proximity to:

- (A) lakes;
- (B) rivers;
- (C) wetlands;
- (D) meadows; or
- (E) known flight paths, such as:
- (I) large snags;
- (II) large perch trees;
- (III) emergent trees; and
- (IV) roost trees.





(c) Design projects to result in no net increase in the proportion of each BMU sub-unit (trust lands only) that exceeds an open road density of one mile per square mile from baseline levels calculated in 1996.

(i) In the event a road is encountered that is not in the existing baseline, and evidence suggests the road existed prior to 1996, the road would be added to the 1996 baseline data and revised baseline levels would be calculated. This shall apply only during the non-denning period.

(ii) The department may allow temporary increases in road density above 1996 baseline levels for each BMU sub-unit upon approval by the forest management bureau chief. In such situations, the department shall apply alternative methods to minimize impacts on grizzly bears to the maximum extent practicable.

(d) Design projects to result in no net decrease from baseline levels calculated in 1996 in the proportion of each BMU sub-unit (trust lands only) designated as security core. The department shall map security core areas. Security core areas shall remain intact for periods approximating 10 years, to the extent practicable.

(i) The department may allow temporary decreases in security core below 1996 baseline levels for each BMU sub-unit upon approval by the forest management bureau chief. In such situations, the department shall apply alternative methods to minimize the impacts on grizzly bears to the maximum extent practicable.

(e) For project-related activities that would occur within or immediately adjacent to security core areas, make efforts to conduct human activities during the denning period (November 16 to March 31). The department shall construct temporary roads and skid trails to prevent future use by motorized vehicles during the non-denning period after completion of project-related activities.

(f) When conducting project activities in or near identified security core areas during the non-denning period, minimize the duration of air and ground-based harvest

activities to the extent practicable, particularly in known areas of seasonal importance for bears.

(i) The department shall make efforts to design helicopter flight routes in a manner that avoids and/or minimizes flight time across security core areas and/or known seasonally secure areas.

(ii) Where practicable, the department shall design flight paths to occur greater than one mile from potentially affected core areas or areas of known seasonal importance.

(g) Where procedures are lacking and to the extent practicable, use published information, professional judgment, and available technology to locate and provide for secure areas of known seasonal importance for displaced bears where displacement risk is deemed high. Where feasible, the department may expand security core areas with additional buffers and/or temporary road restrictions to reduce temporary losses of effective security core area.

(h) Calculate total road density for analysis purposes and make efforts to reduce total road density to the extent practicable.

(i) Consider seasonal closures and activity restrictions for mitigating proposed actions.

(j) Monitor road closures annually for effectiveness and make necessary repairs within one operating season.

(k) Retain no less than 40% of any BMU sub-unit (trust lands only) in hiding cover. In situations beyond department control where disturbances may temporarily reduce hiding cover within a BMU sub-unit, the department shall make efforts to minimize further reductions of hiding cover.

(l) To provide additional security for grizzly bears, retain cover that provides visual screening adjacent to open roads, where practicable.

(m) Prohibit contractors and purchasers conducting contract operations from carrying firearms while operating. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.433 GRIZZLY BEAR MANAGEMENT ON OTHER WESTERN MONTANA LANDS (1) When conducting forest management activities on scattered lands administered by the Stillwater unit, Kalispell unit, Missoula unit and Clearwater unit, within the NCDE, and in Plains and Libby unit lands within the Cabinet-Yaak ecosystem, the department shall adhere to the following:

(a) Design projects to result in no permanent net increase of open road density on parcels that exceed an open road density of one mile per square mile using simple linear calculations. This shall apply only during the non-denning period. Temporary increases are permissible for up to two consecutive operating seasons. The department shall make efforts to reduce total road density when compatible with other agency goals and objectives.

(b) Retain cover that provides visual screening adjacent to open roads to the extent practicable.

(c) Maintain hiding cover where available along all riparian zones.

(d) Prohibit contractors and purchasers conducting contract operations from carrying firearms while operating. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.434 GRIZZLY BEAR MANAGEMENT ON EASTERN MONTANA LANDS

(1) On Bozeman unit lands within the greater Yellowstone ecosystem, and Helena unit and Conrad unit lands within the NCDE, the department shall determine appropriate methods to comply with the Endangered Species Act, 16 U.S.C. Sections 1531 through 1544 and 77-5-116, MCA, on a project level basis. Factors to consider shall include, but not be limited to:

- (a) cover retention;
- (b) duration of activity;
- (c) seasonal restrictions;
- (d) hiding cover near riparian zones;
- (e) food storage (where applicable); and
- (f) road density. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.435 THREATENED AND ENDANGERED SPECIES - CANADALYNX

(1) The department administrative area offices where lynx rules apply to management activities include the department's northwest land office, southwest land office, central land office and northeast land office.

(2) Specific habitat elements recognized as important for lynx that occur within preferred lynx habitat types include:

- (a) denning;
- (b) mature foraging;
- (c) young foraging; and
- (d) temporary non-lynx habitat.

(3) The department shall generally manage for lynx habitat through the coarse filter approach, consistent with the emulation of natural processes, as described in ARM 36.11.404.

(a) When specifically assessing lynx habitat for stand identification, management, and retention the department may consider:

- (i) CWD abundance;
- (ii) proximity to foraging habitat;
- (iii) proximity to denning habitat;
- (iv) proximity to class 1 streams;
- (v) habitat connectivity; and
- (vi) firewood cutting risk.

(4) The department shall not salvage within stands identified as necessary to meet denning habitat requirements.

(5) In areas considered for pre-commercial thinning in lynx habitat, the department shall delay thinning in young foraging habitat stands with stem density greater than or equal to 4,000 per acre until the average crop tree height is greater than or equal to 15 feet or until lower limbs have evanesced up to approximately six feet high. Post-thinning, the department shall consider these stands other habitat for a minimum of 10 years post-treatment.

(6) The department shall:  
(a) minimize construction of new roads;  
(b) incorporate use of temporary roads; and  
(c) obstruct or obliterate unnecessary existing roads in lynx habitat.

(7) When conducting forest management activities on blocked portions of the Stillwater, Swan River or Coal Creek state forests the department shall adhere to the following:

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(a) The department shall identify and retain denning habitat on approximately 5% of the total lynx habitat acreage (sum of denning, mature foraging, young foraging, and temporary non-lynx habitat) within each applicable grizzly bear BMU sub-unit in patches greater than or equal to five acres (larger preferable).

(b) The department shall, on a BMU sub-unit basis, manage for 10% of the total lynx habitat acreage to be in a mixture of mature foraging and young foraging habitat.

(i) The department may salvage in mature foraging stands, provided that understory sapling densities are not reduced below the moderately-stocked condition, and CWD abundance is enhanced or not appreciably altered.

(8) When conducting forest management activities on all other department lands administered by the department's northwest land office, southwest land office, central land office and northeast land office, the department shall adhere to the following:

(a) The department shall maintain a minimum of five acres of denning habitat, where present, on parcels containing appreciable amounts of lynx habitat as determined at the project level.

(b) The department shall evaluate habitat suitability and retention of mature foraging habitat on parcels containing lynx habitat at the project level.

(i) On parcels containing appreciable amounts of lynx habitat in areas where broader landscape habitat conditions allow, the department shall retain approximately 10% of the lynx habitat acreage in mature or young foraging habitat.  
(History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP,

77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.436 SENSITIVE SPECIES (1) The department recognizes that certain plant and animal species, both terrestrial and aquatic, are particularly sensitive to human activities in managed forests. Populations of such species are usually small and/or declining. Continued adverse impacts from land management activities may lead to their being federally listed as threatened or endangered. Because sensitive species usually have specific habitat requirements, consideration of their needs is recognized as a useful and prudent fine filter for ensuring the department meets the primary goal of maintaining diverse and healthy forests. Considering sensitive species in management actions helps ensure that decisions will be made appropriate to the fundamental philosophy and that additional federal listings will not be necessary.

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(a) However, if objective analyses suggest that the underlying ecological forces would produce a distribution of cover types different than those existing, it is appropriate to move toward the historic pattern. Sensitive species considerations for habitat management are not intended to preclude a general move toward historic representation of cover types.

(2) The department shall manage to generally support populations of sensitive species on state trust lands. The department shall accomplish this by managing for site characteristics generally recognized as important for ensuring their long-term persistence. The department may accept localized adverse impacts, but only within the context of an overall strategy that supports habitat capability for these species.

(a) Department staff shall report notable observations of sensitive plant and animal species to the Montana natural heritage program (MNHP) or other appropriate data repository.

(b) Sites identified as important on projects with identified sensitive plant species shall be monitored to assess implementation of mitigation measures. On selected department projects with listed sensitive animal species,

periodic follow-up surveys would be conducted to assess how well management actions have provided for site conditions needed to support those populations. Deficiencies would be documented and used to guide future management actions and mitigations.

(3) For sensitive plant species, the department shall protect important sites and/or site characteristics with mitigation measures applied to management activities likely to have substantial long-term impacts. Prior to conducting planned land management activities, the department, at its sole discretion, shall refer to databases maintained by the MNHP, the United States forest service (USFS) and/or other appropriate sources for information on occurrence of plant species of special concern. Where information indicates potential for sensitive plant species and their habitat to occur within project areas, field surveys and/or consultation with other qualified professionals may be required to determine the presence, location, and mitigation measures for sensitive plant species.

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(4) For sensitive animal species, the department shall provide habitat characteristics recognized as suitable for individuals to survive and reproduce in situations where land ownership patterns, underlying biological conditions, and geographical conditions allow for them. The department's contribution toward conservation of wide-ranging animal species that occur in low densities and require large areas to support self-sustaining populations would be supportive of, albeit subsidiary to, the principal role played by federal agencies with larger land holdings.

(5) For proposed projects, the department shall look for opportunities to provide for habitat needs of sensitive animal species, primarily through managing for the range of historically occurring conditions appropriate to the sites. In blocked ownerships this shall include consideration of such issues as connectivity and corridors. In scattered



(c) Retain and recruit large-sized snags pursuant to ARM 36.11.404.

(d) Open up dense stands on warm, dry slopes towards a basal area of 35 to 80 square feet.

(e) Promote non-uniform stands and retain occasional dense patches of conifer regeneration and shrubs. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.438 SENSITIVE SPECIES - BLACK-BACKED WOODPECKER

(1) The department shall consider the following when developing prescriptions for harvest in areas of recently burned (less than five years) forest patches greater than 40 acres in size:

(a) The department shall minimize mechanized activity within 0.25 mile of black-backed woodpecker habitat during the period April 15 through July 1.

(b) The department shall manage approximately 10% of the burned acreage in an unharvested condition that is broadly representative of the entire burn (i.e., similar habitat types, fire intensity, elevations, stand density, and stand age class prior to burn) to be determined using site-specific information at the project level. The department shall manage such areas in relatively contiguous blocks favoring close proximity to unharvested fire-killed deferred stands on neighboring ownerships considering the habitat needs of black-backed woodpeckers.

(c) The department shall leave standing sub-merchantable burned trees where soil, slope stabilization, and human safety concerns allow. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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36.11.439 SENSITIVE SPECIES - PILEATED WOODPECKER

(1) The department shall manage stands containing pileated woodpecker preferred habitat in larger, rather than smaller blocks, whenever practicable. Where large contiguous tracts of such stands are unavailable, the department shall consider management of smaller stands in close proximity to one another, or close to similar stands on adjacent ownerships.

(a) The department shall consider unsuitable areas of pileated woodpecker preferred habitat of less than 40 acres, unless they are close to other appropriate stands.

(b) Within pileated woodpecker preferred habitat, the department shall manage for snags, snag recruits, and CWD according to ARM 36.11.411, 36.11.413, and 36.11.414 particularly favoring retention of western larch, ponderosa pine and black cottonwood, considering amounts that would historically occur on similar sites. The department shall consider broken-top snags greater than 20 feet tall priority candidates for retention.

(c) Where appropriate, the department shall manage to encourage retention of black cottonwood, particularly where it can attain large size. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.440 SENSITIVE SPECIES - FISHER (1) The department shall assess fisher habitat on projects that contain preferred fisher cover types for lands administered by the department's northwest land office and southwest land office. When conducting forest management activities, the department shall consider the following as consistent with 77-5-301 and 77-5-302, MCA:

(a) In blocked areas within the Stillwater, Swan River, and Coal Creek state forests, the department shall use the grizzly bear BMU sub-unit as the unit of analysis. In all other areas, the department shall determine the unit of analysis at the project level.

(b) When managing within preferred fisher cover types that are within 100 feet of class 1 streams or within 50 feet of class 2 streams:

(i) The department shall manage 75% of the acreage (trust lands only) to be in the sawtimber size class in moderate to well-stocked density. The department shall postpone treatments where this cannot be accomplished.

(A) Where treatments reduce stand density below moderately stocked levels, the department shall make efforts to provide forest connectivity along the opposite stream bank.

(ii) The department shall define a minimum of one buffered management zone connecting to other fisher habitat through sites where individual perennial and intermittent stream courses are difficult to define (e.g., braided with many channels).

(iii) The department shall retain large snags, snag recruits and CWD pursuant to ARM 36.11.409 through 36.11.414. The department shall promote recruitment if existing abundances are below expected levels. Following large-scale stand replacement disturbance events in preferred fisher cover types, the department shall give consideration to maintaining an abundance of large snags and CWD within 100 feet of class 1 streams and 50 feet of class 2 streams.

(iv) When practicable, the department shall avoid constructing new roads in preferred fisher cover types within 100 feet of class 1 streams or 50 feet of class 2 streams. Where feasible, the department shall incorporate use of temporary roads, and obstruct or obliterate unnecessary existing roads.

(c) The department shall manage for at least one forested patch providing connectivity between adjacent third order drainages, preferably in saddles, where landscape conditions allow.

(d) The department shall consider importance of late-successional riparian and upland forest in meeting the life requisites of fishers. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.441 SENSITIVE SPECIES - COMMON LOON (1) The department shall manage for common loons in the following manner:

(a) For all lakes where common loon nesting pairs exist:

(i) limit construction of new permanent roads, structures, or permanent developments within a 500-foot radius of the nest site; and

(ii) limit mechanized activity within a 500-foot radius of the nest site between April 15 and July 15.

(b) For lakes which have been recently occupied but for which no currently nesting pair resides:

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(i) survey lakeshores for nesting loons prior to developing plans for lakeshore development, road construction, or timber harvest that will occur within 500 feet of the lakeshore;

(ii) prior to finalizing plans for any new roads, developments, timber sales, or intensive motorized activity that will occur on or near any lake potentially suitable for use by loons, design appropriate mitigation measures specific to the situation; and

(iii) if nesting is not documented, identify sites for proposed projects that would least likely be occupied by nesting loons in the future. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.442 SENSITIVE SPECIES - PEREGRINE FALCON (1) The department shall manage for peregrine falcons within a 0.25 mile radius of a known nest site, and develop appropriate silvicultural mitigation measures for the particular situation.

(a) The department shall limit human activity, both low and high intensity, and mechanized activity typically within a 0.5 mile radius from known nest sites between March 1 and August 1.

(i) The department shall determine distances for activity restrictions on a site-specific basis for aerial operations. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.443 BIG GAME (1) The department shall promote a diversity of stand structures and landscape patterns, and rely

(a) To the extent possible, the department shall manage to provide for big game habitat. Measures to mitigate potential impacts shall be implemented if they are consistent with overall management objectives, and with ARM 36.11.404 through 36.11.418.

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(3) Biodiversity monitoring procedures described in ARM 36.11.419 shall be used to track health of forest ecosystems. This process shall be used as the primary indicator of the health of wildlife populations using these ecosystems. When necessary, corrective actions would be taken as described in ARM 36.11.419. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

- (a) range condition;
- (b) plant species composition;
- (c) riparian forage and browse utilization;
- (d) streambank disturbance;
- (e) presence of noxious weeds;
- (f) erosion; and
- (g) condition of improvements.

(2) The department shall inspect grazing licenses mid-term between renewals to determine:

- (a) range condition;
- (b) riparian forage and browse utilization;
- (c) streambank disturbance; and
- (d) overall tract conditions with an emphasis on potential concerns or problems noted during the previous renewal inspection.

(3) The department may specify grazing license stipulations any time during the term of the license.

(4) The department shall specify the number of animal unit months, type of livestock, and grazing period of use on grazing licenses for classified forest trust lands.

(5) The department shall determine stocking rates for grazing licenses using visual assessment of existing vegetative plant species composition. The department shall compare estimated species composition by weight per range site to potential (climax range condition) for specific range sites.

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(6) The department shall require grazing management practices that are designed to minimize loss of riparian and streambank vegetation, and structural damage to stream banks that results in non-point source pollution for grazing licenses issued or renewed on forest classified lands.

(7) The department shall manage each grazing license to:

- (a) maintain or restore both herbaceous and woody riparian species in a healthy and vigorous condition;

- (b) facilitate the ability of vegetation to reproduce and maintain different age classes in the desired riparian-wetland plant communities;

- (c) leave sufficient vegetation biomass and plant residue, including woody debris, to provide for adequate sediment filtering and dissipation of stream energy for bank protection; and

- (d) minimize the physical damage to stream banks to a level that maintains channel stability and morphological characteristics.

(8) The department shall authorize continuous or season-long grazing only when healthy riparian conditions are maintained.

(9) The department shall direct the grazing licensees to place mineral, protein, and other supplements in areas that minimize animal concentration near riparian areas.

(10) The department shall direct grazing licensees to locate holding facilities outside of riparian areas.

(11) The department shall evaluate existing riparian use for each license during renewal and midterm inspections and may specify acceptable riparian use and streambank impact levels through stipulations in the grazing license, if necessary to meet conditions described in (6).

(12) The licensee, with technical assistance from the department, shall mitigate or rehabilitate riparian and stream channel damage greater than the specified riparian use levels as determined pursuant to (11). If improved management does not resolve the damage, the department may make adjustments to the license to facilitate rehabilitation efforts.

(13) Licensees shall have primary responsibility for developing and maintaining rangeland improvements. The licensee shall also be responsible for maintaining or improving range sites by managing livestock grazing and utilization in a manner that would produce a stable or upward trend in range condition. The department may support rangeland improvements through technical and financial assistance, as workload and budget allow. Rangeland improvements include, but are not limited to, riparian management, weed control, water developments, grazing management systems, and fencing. The

department and the licensee may cost-share improvements through an addendum to the license. The addendum stipulates terms and conditions by which the licensee may be required to reimburse the state for improvement expenses incurred. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.445 WEED MANAGEMENT (1) On classified forest lands the department shall use an integrated pest management approach for noxious weed management that includes prevention, education, cultural, biological, and chemical methods as appropriate.

(a) The department shall limit herbicide applications to areas where herbicides provide a cost-effective means of control.

(b) The department shall consider new outbreaks of noxious weeds and locations where native plant communities are threatened by noxious weed encroachment the first priority for control.

(c) The department shall submit general re-vegetation plans for land-disturbing projects to county weed boards as part of biennial agreements.

(d) The department shall promptly re-vegetate road rights-of-way and other disturbed areas with site-adapted species including native species, as available.

(2) The department shall manage forested state trust lands with the intent of controlling the spread of weeds.

(a) Practices to be utilized include, but are not limited to:

- (i) the use of weed-free equipment;
- (ii) prompt re-vegetation of roads;
- (iii) minimizing ground disturbance; and
- (iv) stipulations and control measures that limit the spread of weeds in timber sale contracts.

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(3) A licensee of classified forest trust land shall be responsible for weed control at their expense pursuant to ARM 36.25.132.

(4) On sites where weeds were introduced by recreation use, the department shall make available a portion of recreational access fees for weed control pursuant to ARM 36.25.159.

(5) All right-of-way agreements shall require the permittee to control weeds commensurate with the permitted use.

(a) This may include fees charged for weed control by the department or the weed district.

(6) In areas where weeds are widespread across state and adjacent ownerships, the department shall cooperate with weed districts on control projects.

(7) The department shall review implementation of noxious weed control and mitigation measures on cooperative projects and shall establish reasonable goals to address deficiencies as determined by the department at its sole discretion. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.446 FINANCES AND ECONOMICS (1) The department shall manage forested state trust lands at different levels of intensity depending on biological productivity and economic potential. The department shall make investments according to trust law to maximize revenue over the long-term for the beneficiary, and to accomplish forest management objectives.

(a) The department shall retain flexibility in order to produce long-term stable income and pursue other income opportunities as guided by changing markets for new and traditional uses. Other site-specific income opportunities may occur on a minor amount of forest acreage. These uses may diverge from elements of ARM 36.11.401 through 36.11.445, but would not compromise the overall fundamental premise of managing for biodiversity and forest health.

(2) The department shall review on an annual basis its financial and economic assumptions used in management decisions.

(3) The department shall prepare an annual revenue/cost summary for the forest management programs. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.447                    CATEGORICAL EXCLUSIONS                    (1)                    Forest management activities that are classified as categorical exclusion shall not require an environmental assessment or environmental impact statement.

(a) Categorical exclusions include activities on state trust lands conducted by others under the authority of the department as well as activities conducted by the department itself.

(2) Categorical exclusions shall not apply where extraordinary circumstances may occur. This includes, but is not limited to, activities affecting one or more of the following:

- (a) sites with high erosion risk;
- (b) federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS;
- (c) within municipal watersheds;
- (d) the SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures;
- (e) state natural area;
- (f) Native American religious and cultural sites;
- (g) archaeological sites;
- (h) historic properties and areas;
- (i) several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review; or
- (j) violations of any applicable state or federal laws or regulations.

(3) Pursuant to ARM 36.2.523, the department adopts the following additional categorical exclusions for forest management activities conducted on state trust lands:

(a) Minor temporary uses of land involving negligible or no disturbance of soil or vegetation and having no long-term effect on the environment.

(b) Plans or modifications of plans adopted or approved by the department that would not essentially pre-determine future individual department actions affecting the physical or biological environment.

(c) The issuance, renewal, or assignment of a lease or license on land when the uses of the land authorized under the lease or license will remain essentially the same.

(d) Acquisition of fee title, easements, rights-of-way, or other interests in land that do not tend to commit the department to other actions.

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(e) Maintenance and repair of existing roads.

(f) Reconstruction or modification of an existing bridge on essentially the same alignment, or replacement of a culvert, including temporary diversion or channelization of the stream, if done in accordance with all applicable state and federal laws and regulations and with BMP's to minimize sedimentation.

(g) Crossings of class 3 stream segments by means of culvert, bridge, ford, or other means, in accordance with BMP's and pursuant to ARM 36.11.304.

(h) Issuing permits for temporary use of existing roads.

(i) The closure of existing roads including installation of gates, berms, debris, or other facilities necessary to close existing roads to motorized public use.

(j) Removal of materials that have been stockpiled from previous excavation.

(k) Back filling of earth into previously excavated land with material compatible with the natural features of the site.

(l) Gathering small quantities of forest products for personal use, such as:

(i) firewood;

(ii) Christmas trees; or

(iii) posts.

(m) Regeneration of an area to native tree species, through planting or other means, including site preparation that does not involve the use of herbicides or result in conversion of the vegetation type.

(n) Seed procurement, growing, lifting, and distributing nursery stock, and associated non-chemical disease and pest control.

(o) Drilling of water wells for domestic use and for irrigation of lawns and gardens for existing cabin sites or home sites.

(p) Herbicide or pesticide treatments, done in accordance with registered label instructions and uses, for control of pests or nuisance vegetation, using spot applications on less than 160 acres within a 640 acre section, during a calendar year.

(q) The handling of hazardous materials for fire suppression or other purposes (e.g., fuel for a helicopter seeding project) when done according to specifications of the United States department of transportation, state and federal regulations, and label specifications.

(r) Fence construction, which may include cutting minor amounts of live timber not in excess of 5,000 board feet, if the fence is no more than 42 inches high and the bottom wire is at least 16 inches from the ground.

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(s) Installation of water pipelines to improve livestock distribution or otherwise benefit grazing allotments.

(t) Mechanical removal of trees less than two feet tall that are encroaching on range or non-commercial forest lands, on up to 60 contiguous acres, not to exceed a total of 160 acres within a 640 acre section, during a calendar year.

(u) Removal of hazardous trees from around structures, recreation areas, and roads, not to exceed 5,000 board feet.

(v) Activities associated with cone collection to provide seed for reforestation.

(w) Individual timber sales of up to 100,000 board feet, or salvage harvests of up to 500,000 board feet. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.448    MANAGEMENT OF THE STATE FOREST LAND MANAGEMENT PLAN

(1) Beginning in the year 2005 and every five years thereafter, the forest management bureau chief shall make a written report to the director of the department and the trust land management division administrator on the current status of state forest land management plan implementation and effectiveness, including a recommendation on the need for significant changes to the plan.

(2) Upon review, the department shall consider changing the plan for one or more of the following reasons:

(a) new legislation is adopted that is not compatible with the selected alternative;

(b) the state board of land commissioners provides new direction; or

(c) the forest management bureau chief judges that the original assumptions supporting the plan no longer apply.

(3) The department may make minor changes or additions to the plan without a programmatic review of the entire plan as long as those changes are compatible with the overall plan, as determined at the sole discretion of the department.

(a) Cumulative minor changes could result in a programmatic review of the SFLMP.

(5) The department shall monitor individual resources pursuant to ARM 36.11.404 through 36.11.445.

(a) The department shall compile the results of monitoring into a report for the state board of land commissioners by October 2005 and every five years thereafter.

(b) The department shall include monitoring mechanisms for applicable elements of ARM 36.11.404 through 36.11.445 and project environmental analyses in forest management activity contracts.

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(c) Contract administrators shall monitor compliance with all requirements specified in contracts for forest management activities. If contract requirements are not being met, the contractor shall correct them, under department supervision. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.449 SITE-SPECIFIC ALTERNATIVE PRACTICES (1) The department shall comply with ARM 36.11.401 through 36.11.445 when conducting forest management activities, unless approval has been obtained from the forest management bureau chief for alternative forest management practices. Alternative practices may be designed in response to site-specific conditions encountered while planning forest management activities.

(2) The forest management bureau chief may approve proposed alternative practices only if such practices would be otherwise lawful, and it is determined with reasonable certainty that the proposed alternative practices would provide

adequate levels of resource protection. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

36.11.450 TIMBER PERMITS (1) Under the authority of 77-5-212, MCA, the department may issue commercial timber permits at commercial rates and without advertising that do not exceed 100,000 board feet of timber, or, in cases of emergency salvage, do not exceed 200,000 board feet of timber. The department shall not be required to obtain approval from the board of land commissioners to issue specific timber permits. The board shall retain administrative oversight of the timber permit program. Permits will not be subject to categorical exclusions except as stated in ARM 36.11.447. (History: 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA; IMP, 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA; NEW, 2003 MAR p. 397, Eff. 3/14/03.)

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